linked to further negotiated reductions in foreign subsidies under reciprocal trade agreements within the jurisdiction of the Ways and Means Committee.

Section 502 of the bill, as reported, would authorize the Secretary of Agriculture to impose fees to cover the cost of providing agricultural quarantine and inspection services. Although the fees would generally be limited to the cost of the quarantine and inspections programs (and associated administrative costs), the section would allow the fees to accumulate to ''maintain a reasonable balance in the Agricultural Quarantine Inspection User Fee Account.'' Although amounts in the account would generally be subject to appropriations, ''excess fees'' (fees collected in excess of $100 million) could be spent without appropriation. A special rule applies to the unobligated balance of the Fee Account and fees collected after September 30, 2002.

The mere reauthorization of a preexisting fee that had not historically been considered a tax does not necessarily require a sequential referral to the Committee on Ways and Means. However, if such a preexisting fee is fundamentally changed, it properly should be referred to the Committee on Ways and Means.

In this case, the fee is being more than merely reauthorized, but it is not clear that the fee is being fundamentally changed. Therefore, I ask you to work with me in conforming this fee as closely as possible to a true regulatory fee as permitted under the Rules of the House during further consideration of this legislation.

In response to your requests that I facilitate consideration of this important legislation, I do not believe that a markup of H.R. 2854 by the Committee on Ways and Means will be necessary.

However, this is being done only with the understanding that this does not in any way prejudice the Committee's jurisdictional prerogatives in the future with respect to this measure or any similar legislation, and it should not be considered as precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future. Should any provisions of jurisdictional interest remain in the bill after Floor consideration, I would request that the Committee on Ways and Means be named as additional conferees.

Finally, I would ask that a copy of our exchange of letters on this matter be placed in the Record during consideration on the Floor. With best regards,

Sincerely,

BILL ARCHER,
Chairman.

COMMITTEE ON AGRICULTURE,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 28, 1996.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your letter of January 31, 1996 acknowledging the understanding of the Committee on Ways and Means, to which H.R. 2854, the ''Agricultural Market Transition Act'', had been additionally referred, and the Committee on Ways and Means would forego a markup of the bill in order to facilitate consideration of H.R. 2854 on the Floor of the House.

Your cooperation in this matter is very much appreciated. Certainly, your action of foregoing a markup is not viewed by this Committee as in any way prejudicing your Committee's jurisdictional prerogatives in the future with respect to this measure or any similar legislation and the Committee does not consider your action as a precedent for consideration of matters of jurisdictional interest to the Committee on Ways and Means in the future.

Also, pursuant to your request I will insert a copy of our exchange of letters in the Congressional Record during the consideration of H.R. 2854 on the floor.

Sincerely,

PAT ROBERTS,
Chairman.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2854, AGRICULTURAL MARKET TRANSITION ACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of the bill H.R. 2854, to include corrections in spelling, punctuation, section numbering, and cross-referencing and the insertion of appropriate headings.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and insert extraneous material with respect to H.R. 2854, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 956, PRODUCT LIABILITY FAIRNESS ACT OF 1995

Mr. CONYERS. Mr. Speaker, I offer a motion to instruct conferees on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate Amendment to the bill H.R. 956 be instructed to insist upon the provisions contained in section 107 of the House bill.

The SPEAKER pro tempore. Pursuant to clause 1(b) of rule XXVIII, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, this may be the last activity for the day and for the week, and so I will move with as much expedition as I can. We do not have a lot of speakers on the matter.

I am very pleased to come before the House with a motion that will instruct our conferees on the subject of product liability reform in terms of a requirement that would insist that the foreign corporations in America do business the same as those that are domiciled in this country.

As the senior member of the Committee on the Judiciary, I have brought this motion to instruct conferees to insist on a House-passed provision that ends special treatment for foreign corporations when it comes to civil litigation in the United States. In other words, this thoughtfully crafted amendment merely seeks to ensure that foreign manufacturers who sell products in the United States, that they play by the same legal rules that govern the conduct of other and all other American companies.

We have supported this measure in the House, and we are merely instructing our conferees to stick with us. Section 107 of the House bill provides that Federal courts shall have jurisdiction over foreign manufacturers who knew or reasonably should have known that their product would enter the stream of commerce in the United States, and, second, that service of process may be served wherever the foreign manufacturer is located, has an agent or transacts business, and, third, any failure by such foreign corporation to comply with a court-approved discovery order shall be deemed an admission of fact to which the discovery order relates.

As the record and history demonstrate, under current law, the foreign corporations legally can suppress the production of constitutional discovery information by hiding behind the protectionist shield of the Hague Convention or some other treaty. This, of course, runs counter to a basic premise of American jurisprudence; namely, that the person who causes an injury should be held legally accountable and has the ironic effort of causing all economic consequences to be borne by American consumers, insurance companies, employers, or the Government.

There were 258 Members who voted for the original Conyers amendment, and my colleagues might want to check the March 19, 1995, CONGRESSIONAL RECORD to see if they were among those numbers.

If foreign companies are permitted to reap profits from selling their products here, can it be more reasonable that they should be held to the same standard and legal procedures as our own companies? And certainly, in tragic cases where the American consumers are victimized by defective foreign products, foreign corporations should not be able to avoid responsibility for injuries suffered because of their products.

We need a level playing field for American businesses, and rule of fairness for the American consumer victimized by defective foreign products is essential.

As we know too well, the unlevel economic playing field caused by the various current foreign trade barriers is exacerbated when foreign companies can literally get away with murder here by shunning their legal responsibilities while pocketing profits for selling products in our own country.

So we are asking not that we give American companies an upper hand, but that we take away the leverage, the advantage, the unfair edge that the foreign companies based in the United States have.

We have supported this amendment. I trust that you will be kind enough to support the motion to instruct conferees.

So I ask that members vote ''yes'' on the motion to instruct pending before the House.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct conferees is an attempt by opponents of product liability reform to discourage or preclude agreement between the House and Senate on this important legislation. If you favor excessive litigation related expenses, inflated settlement offers, increased liability insurance rates, and higher prices for goods and services, you may want to tie the hand of the conferees. On the other hand, if you want to foster U.S. competitiveness in international markets, preserve and expand employment opportunities here at home, and protect the American consumer, you will oppose this motion to instruct.

A vote for this motion to instruct is a vote to potentially kill product liability reform in this Congress. I am very skeptical that the Senate is willing and able to pass a conference report which includes the Conyers amendment. Adoption of this motion would interfere with our ability to arrive at a final agreement with the Senate on this most important bill.

The motion to instruct does not end special treatment for foreign companies, in fact it would require that special rules be applied in product liability litigation involving foreign manufacturers.

Foreign manufacturers would be subject to suit in any Federal court; foreign manufactures would be subject to service of process anywhere in the country; and discovery omissions by foreign manufacturers would be deemed admissions of the facts sought to be discovered.

The best way to provide a level playing field for American businesses is not to legislate different discovery standards for foreign businesses, but to rein in the costs of product liability cases and change our legal system from a game of Russian roulette to one which provides fairness and certainty to all litigants.

Far from creating a level playing field, the Conyers amendment discriminates against foreign companies by requiring them to subject themselves to service of process to a degree not required of any other litigant. American corporations are not required to make themselves available to suit anywhere in the United States, merely because they knew or reasonably should have known that their product would be in the stream of commerce in that jurisdiction.

A person injured by a product manufactured by a foreign corporation will be able to sue and recover damages even if the foreign manufacturer is not subject to suit in the United States. The conference report will include a provision making product sellers liable as manufacturers when the manufacturer is not subject to service of process under the laws of the State where the action is brought.

This new rule is unnecessary. There is no evidence that foreign manufacturers routinely refuse to appear in American courts, and the Hague Convention already establishes procedures for service of process on foreign corporations.

The motion raises significant constitutional and international law concerns, represents a serious potential irritant in our bilateral relations with other countries, and raises the specter of foreign retaliation against American firms.

As a signatory to the Hague Convention, the United States is bound to follow its procedural rules. The Conyers amendment, if adopted, would require the United States to renege on its international obligations in this regard.

The Commission of the European Communities and its member states have expressed strong opposition to the Conyers provision, because it ignores the rights of defendants in countries outside the jurisdiction of the country of litigation, and ignores the sovereign rights of countries which have different procedural rules than that of the United States.

If the Conyers provision is enacted, it is likely that other countries will also ignore the provisions of the Hague Convention, and begin applying their own procedural rules to American companies whose products enter the stream of commerce abroad. American businesses stand to lose, not gain, from this provision.

The special rules for foreign manufacturers are not supported by American businesses. Many domestic companies have international affiliates that would be adversely affected by the special rules; many use component products manufactured abroad.

The special rules will disadvantage American businesses when both foreign and domestic manufacturers are defendants in the same litigation. They will encourage plaintiff's lawyers to join foreign companies so as to expand the venues in which suit can be brought. This will raise the cost of litigation for American companies.

I strongly urge the House to defeat the motion to instruct. We must not create a stumbling block to product liability reform.

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am proud to yield 5 minutes to my friend, the gentleman from Michigan [Mr. DINGELL], the dean of the House of Representatives and dean of the Michigan delegation.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I thank my good friend for the time.

Mr. Speaker, I commend the gentleman from Michigan [Mr. CONYERS] for his leadership in this matter. This is a splendid motion to instruct, and I would urge all my colleagues to support it.

This is not something which has come full blown on us and it is a matter of surprise. We have all seen this before. This exact language passed the House 258 to 166.

The comment is made that perhaps this might inhibit the passage of product liability legislation. Nothing is further from the truth. What does the proposal do? The proposal treats U.S. corporations, U.S. manufacturers, and U.S. workers the same way that sneaky, dishonest, fly-by-night foreigners are treated.

Having said that, what it says is as follows: That Federal courts have jurisdiction over foreign manufacturers, who knew or who reasonably should have known that their product would enter the stream of commerce in the United States.

Second, the amendment states that the service or process may be served wherever the foreign manufacturer is located, has an agent, or transacts business.

For the benefit of my colleagues on the Committee on the Judiciary, that is standard, boilerplate language that you have seen 100 times. As a matter of fact, you cannot open a law book with regard to service without seeing this kind of language.

Finally, the motion says that the failure of foreign corporations to comply with court ordered discovery orders will be deemed an admission of fact to which the order relates. In other words, if they do not cooperate, the court will draw the necessary and proper conclusions from their refusal to cooperate.

Now, what is at stake here? What is at stake here is a very simple thing, the protection of American consumers, the opportunity of American people to litigate questions with regard to product liability. That is important.

But something else is at stake here, too: Fair treatment of American workers. Americans who work for American corporations in the United States, competing with foreigners, can know that they are going to get the same protection with regard to product liability that foreigners get.

Foreign corporations are going to know that they cannot now any longer come into this country and market shoddy, cheap, dangerous, unsafe products, and then retreat to their home country, secure in the knowledge that the hurt they have done to American citizens, that the unfair competitive advantage which they have seized on behalf of themselves, will redound to their benefit, to the hurt of American corporations, to the hurt of American workers, and to the hurt of American consumers.

I would urge my colleagues to vote for this on the grounds of basic fairness. I would urge my colleagues to vote for it on the basis of common sense. I would urge 258 of my colleagues who voted for this before to vote for it again on the grounds they have already shown good sense and voted for it once. I would point out that every single Democrat, save one, voted for this. I would point out that some 70 Republicans among my colleagues voted for it.

The American people are going to say when you go home, Why was it that you did not vote for the protection of American industry and the fair treatment of American industry? Why was it you did not vote for the protection of the American consumer? And why was it that you did not vote for equal treatment of American industry with foreigners?

That is all this is about, fairness; foreigners and Americans are treated the same way in the marketplace. If you vote against this motion to instruct, you are voting for preference for foreigners.

I have a few words for my friends on the Republican side which I think they will find useful and interesting. You have observed of late you have a new star shining on the horizon of American political life, his name is Pat Buchanan, and he is talking about the failure of other Republicans to look to the well-being of American workers and American goods. He is talking about shutting our borders and putting huge tariffs.

We do not need to do that today. All my Republican colleagues need to do is carry out the mandate that they heard up in New Hampshire or in Arizona or in other places and to genuflect at the altar of Mr. Buchanan is simply to vote here for fairness for Americans, for fairness for American industry, for fairness for American consumers, and to treat foreigners like we treat American corporations, no better.

If you vote against this, you are voting for a preference for special treatment for foreign manufacturers. You are voting to hurt American workers, American industry. I urge my colleagues to vote as the House did once before. Let us not be afraid. Let us vote for an instruction. I urge my colleagues to support the motion to instruct.

Mr. HYDE. Mr. Speaker, I yield myself 30 seconds, simply to comment how enjoyable it is to be instructed on questions of jurisdiction and service of process from Mr. Justice DINGELL. He just short-circuited the real issue, which is jurisdiction, not where you serve process. Jurisdiction under the amendment under discussion is bad, it states,

> The Federal court in which such action is brought shall have jurisdiction over such manufacture if the manufacturer knew or reasonably should have known that the product would be imported for sale or use in the United States.

That does not apply to any domestic corporation, and it is not boilerplate. It is something radically different.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I rise in opposition to the motion to instruct.

Rarely have we been treated on this floor to such protectionist verbiage, perhaps not since the mercifully failed textile protectionist bill that worked its way through this Chamber on more than one occasion and was mercifully vetoed first by President Reagan and then President Bush. Those vetoes were sustained.

This provision in the bill dealing with a very real issue of product liability, all of a sudden we are inserting this debate and language dealing with the so-called evil foreigners and all of the terrible things they are going to do to the American consumers.

Let us make one thing very clear: The provision in the bill provides for adequate service on any foreign manufacturer that sells products in the United States. That is not in question. There is the ability to provide service and bring those defendants to a court of law.

There was no provision at all dealing with this issue in the Senate. The other body somehow has lurched into the truth for a change, and we ought to recognize that they were wise in what they did.

The issue really is this: Do we want an effective product liability bill passed into law for the first time in I do not know how long, or do we want to try to obfuscate the issue by waving the bloody shirt of protectionism dealing with a bill that has absolutely nothing to do with trade but has a lot to do with changing the legal system in our country? That is really the question.

The gentleman from Michigan, the former chairman of the Committee on Commerce, did yoeman work in working through a product liability bill a couple of Congresses ago. We marked that thing up for 10 long days. The gentleman from Michigan, my good friend, showed great leadership in providing the kind of legislation that really, I think, led us to where we are today, and that is on the verge of getting a sound product liability bill passed.

But, Mr. Speaker, there are those who would seek to try to derail this bill, both outside and inside this Chamber, who have a different agenda than passing a good, fair product liability bill, and anything we can do to obscure that is apparently all right with them.

This simply discriminates against foreign corporations and manufacturers, and invites retaliation by those very same folks against American firms. Now, do we really want to set up this kind of statute in the United States whereby American companies then, who would manufacture and sell products all over the world, would be subject to the same kinds of legal ramifications that are provided in this bill? I think not.

This simply raises the cost of litigation, has the opposite effect of what we are trying to do with the underlying legislation, and that is, invites more litigation and invites more retaliation.

Mr. Speaker, I would call this anti-jobs provision the fat cat lawyers act. It feeds trial lawyers at the expense of American businesses and consumers. It is not in the best interests of American businesses and consumers. Despite the rhetoric coming from the far left and the far right, the principal point of American manufacturers is to sell their products abroad.

The provision, as espoused by both gentleman from Michigan, would have the opposite effect, would have a negative effect on our ability to create and protect markets overseas. I would ask that this motion be defeated and that we get on with the conference report that will send a strong bill to the President for the first time in a long, long time, dealing with a strong product liability legislation that all of us can be proud of.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL], the senior Member of the House of Representatives.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I want to make clear one thing: There is no Member of this body that has greater affection or respect for the distinguished chairman of the Committee on the Judiciary or for the gentleman from Ohio [Mr. OXLEY], my good friend. They are great men, great Americans, and dear friends of mine. I express to them my great respect.

They are regrettably, however, very much wrong on their interpretation of this legislation. All this does is treat foreign manufacturers, foreign corporations, foreign workers, the same way we treat U.S. corporations, U.S. manufacturers, and U.S. workers. That is all. That is all this does.

This is a simple, long-arm statute in the motion to instruct, something which my colleagues have seen time after time. And anytime my distinguished friend, the chairman of the committee, cracks a law book to look

at a service statute, he will find this kind of language relative to American corporations. That is all we want to do, is to apply it to American corporations and to foreigners.

I can understand there is a certain reluctance on the other side of the aisle on this matter. This town is full of lobbyists working for foreign corporations. Their single most important purpose today is to get this language out.

Why? Because it confers an enormous economic advantage on foreign corporations, to know that they can hide abroad after they have manufactured shoddy or dangerous goods or provided services which have hurt Americans. The Americans can go and sue an American corporation. But without this language as provided in the language of the motion to instruct, the foreign corporation is not reachable.

The issue here is a very simple one: Fairness to American corporations, fairness to American workers, fairness to the American economy, and not letting a bunch of sneaking foreigners get out from under their legitimate responsibility to American consumers; and not permitting a bunch of sneaky foreigners to get an economic advantage over Americans, American workers, American manufacturers, American industry, and the American Congress.

The motion is one which screams for the support of this body. It says, if you are fair, if you want to be fair, if you are interested in this country, its workers and its people, you will vote for this motion to recommit and tell the foreign lobbyists this Congress works for the American people, not for a bunch of foreigners.

□ 1515

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. DREIER].

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I thank the distinguished chairman of the committee for yielding time to me.

I have the highest regard and admiration for my friend from Ohio and, of course, from Illinois and for both of my friends from Michigan, who are great Americans and patriots in this institution, but they are both totally wrong on this issue.

Let me give one little example that I think is very important for us to listen to. I heard it said twice, sneaky foreigners. Wow. That is kind of a frightful statement to me.

When I think of, in Great Britain, the prospect of a small, little barber, maybe he is a sneaky foreigner but if he has a little barber shop there and he stirs up his own shaving cream and sells it to an unsuspecting victim who comes to the United States of America and happens to use it here, what happens when that person comes with that shaving cream to the United States? The entire Federal bureaucracy is unleashed on that unsuspecting victim.

It seems to me that this provision is clearly antitrade, antibusiness, and it seriously jeopardizes our agreements that we have internationally. And something else that has not been said is that there are in fact recourses for people who do feel as if they have been victims. That is under the Hague Convention today. So I believe that it was a real mistake to have this measure get in there. It is another attempt to expand the reach of the Federal Government, to bash our trading partners.

And my friend, the gentleman from Michigan [Mr. DINGELL], worked long and hard on a very important telecommunications bill, which recognizes that we have a global economy that has been created. He does that on one hand and then supports this measure which just slaps what he describes as those sneaky foreigners, and I think it is dead wrong. I hope this House will unite in a bipartisan way in opposition.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Let the record show that we on this side respect our friends who may be in the United States and may not be citizens and who are welcome to our shores and are doing business inside our borders. They are complying with the law, and, therefore, they are considered friends of ours. They have chosen to come and do business among us, and they should be made welcome.

They should not, however, be given favored treatment. My dear friend from California, who has been of such help on the Committee on Rules, has pointed out that the little barber from some other country here who concocts his own shaving cream somehow is going to be subject to the venomous provisions of the Product Liability Act that we have passed with this provision in it.

That may be a little bit overstating the case because the American born, local neighborhood barber, who buys his Barbasol off the rack, would be subject to the exact same treatment, if it is conceivable in this hypothetical that anybody else would be. He would be treated the same under the amendment that we have adopted.

By the way, this is not the idea of the gentleman from Michigan [Mr. DINGELL]. It is an idea that has gone through the committee process. We have had witnesses on it. It has been deliberated in the full House of this body. It has passed overwhelmingly. We now come to the point where we ask the conferees to ratify it. I am listening now to a huge outcry about why now the conferees should not be reminded of the work product we have already completed. It is a little bit amazing.

Of course, the chairman of the Committee on the Judiciary is not only one of the most articulate but one of the most learned men on the law in our body. I am pleased to serve with him in that regard. When he looks, again, over the weekend at the provisions of the 5th amendment and the 14th amendment of the Constitution, and then reminds himself of the State long-arm statutes, which allow any corporation, regardless of whether it is domestic or foreign, to be subject to the reaches of the very same provision, the long-arm statutes applied to domestic companies.

We can reach out and get them, if they attempt to flee the jurisdiction in which the harm occurred, and we are only applying the same parallel to those corporations that might not otherwise be amenable to the process.

What is the process? We have got to get jurisdiction. Then we can make service and then we can get discovery. But for goodness sakes, if you are located somewhere else on planet Earth, you cannot obtain jurisdiction. It is as simple as that.

So for someone to suggest to me that the European Economic Community will be unhappy about the work product that we have done in making their companies subject to the same process as American companies, I find the common remark, too bad. I mean, those are the rules, level, even, applicable to one and all.

So what I am saying to my colleagues is that under the Constitution and the long-arm statutes, a corporation, regardless of where it is domiciled, is subject to the jurisdiction of State courts, if they can foreseeably put products in the State stream of commerce. This just includes, this does not just mean foreign corporations, but it means the long-arm statutes apply to domestic corporations as well.

Please, my colleagues, let us not get lost in rhetoric here. Let us have the little barber who has come from foreign shores and makes his own shaving cream, I guess somebody does that in the country, and the guy that takes his product off the shelf be subject to the same provisions.

Mr. HYDE. Mr. Speaker, would the Chair advise how much time remains?

The SPEAKER pro tempore. The gentleman from Illinois, [Mr. HYDE] has 17½ minutes remaining, and the gentleman from Michigan [Mr. CONYERS] has 13 minutes remaining.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

This is a very confused situation and it really should not be. We are talking about manufacturers from Prague, Czechoslovakia, for example, former Czechoslovakia, now the Czech Republic, who do not do business here. They do not have an agency here. They do not have anything here.

They are in Prague and they manufacture a product. Somebody buys it and takes it over here, brings it over to the United States, and it goes from Bangor, ME, to Tallahassee, FL, to Omaha, NE. And then something happens, somebody gets hurt, and they have got jurisdiction over this Czech Republic company in Omaha, NE. And they file a lawsuit.

They, under this bill, they have got jurisdiction. They make demands for discovery, which if they are unanswered, are conceded as admitted and a judgment occurs.

Now, that cuts both ways. That can cut against American companies overseas. There is no need for this process. There is a process whereby due process can be accomplished through the Hague Convention. But here we are conferring jurisdiction, not service of summons, jurisdiction on a court where a manufacturer nowhere near the United States knew or should have known that their product might end up in California or Seattle or somewhere.

Now, that is not treating foreign corporations or stinky little corporations, to use the words of the next Secretary of State, but what it is is conferring jurisdiction where there really should be no jurisdiction and contrary to due process.

So that is why this is objectionable. If the gentleman is so convinced that it is a sound law, it has been passed. It is in the conference. I dare say, the gentleman from the other body will find it very attractive. I do not.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. WATT], a distinguished member of the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me.

I assure the chairman of the committee and others that I will not take 3 minutes because I really think our colleagues want to get out of here and leave this issue behind. But I do want to respond to the chairman's comments and make sure that my colleagues understand the choices that they have.

When a manufacturer in Prague manufactures a dangerous product, knowing or in reasonable judgment should know that that product is going to end up here in the United States, the question becomes whether we should protect the manufacturer in Prague or whether we should protect the individual citizen in Nebraska or North Carolina or Michigan or Illinois or Ohio, what is our responsibility and what are the public policy considerations here?

I want to submit to the chairman that if that manufacturer in Prague knows or reasonably should have known that the individual citizen in Nebraska could end up being injured by that dangerous product, it is our responsibility, as Members of this Congress, to protect American citizens and not to look out for the manufacturer in Prague.

So that is the choice we have got, and it is just a matter of fairness. If a manufacturer in California sends something into North Carolina and he reasonably knows or should have known that somebody in North Carolina is going to get injured, we have got a long-arm statute that can bring him down to North Carolina.

There is no public policy justification for protecting that manufacturer in Prague. He is not a constituent of anybody in this body. He deserves no more protection than a U.S. manufacturer. But think about it. The citizen who lives in Nebraska certainly deserves our protection, and that is what this statute is all about.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

I want to say to my friend from North Carolina, I agree that we should aim toward due process for everybody. The gentleman has stipulated in his hypothetical that the product is shoddy. We have to have a trial to determine who is at fault. The plaintiff in the United States has a recourse, has a remedy, if that plaintiff is injured. He can sue the seller of the product because the seller is treated as the manufacturer in the United States if service cannot be had on the manufacturer.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from North Carolina.

□ 1530

Mr. WATT of North Carolina. And the distributor may have $10 in the bank, and the manufacturer in Prague, a multibillion-dollar industry, is making these things, and is making them dangerously, and knowing that an individual in the United States may end up being injured by them, and it is the U.S. distributor that should be left holding the bag? That is even worse as a matter of public policy, I would submit to the gentleman.

Mr. HYDE. Mr. Speaker, reclaiming my time, I disagree. The gentleman is looking for protection and recourse for the injured plaintiff, and the injured plaintiff can have it against the seller. Now you wish to have a multimillionaire manufacturer in Prague. They still are entitled to due process, and it is not due process by requiring some clairvoyance on the part of the manufacturer to know where that product may end up in the United States.

Mr. WATT of North Carolina. Will the gentleman yield further?

Mr. HYDE. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. We are not talking about clairvoyance, we are talking about knowing or reasonably expecting. That is the same, the same identical legal standard that exists in the United States of America. This is not clairvoyance we are talking about. It is the same legal standard that every manufacturer in the United States is subjected to.

Mr. HYDE. Mr. Speaker, I hope the gentleman in Prague can find an attorney in Omaha to run in and defend himself before he has defaulted and the default judgment is entered so that due process gets at least a pass at being respected.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I forever yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I hope the poor little person in Nebraska that the gentleman was talking about——

Mr. HYDE. Who happens to be a multimillionaire in my hypothetical.

Mr. WATT of North Carolina. Maybe he is a multimillionaire.

Mr. HYDE. He is running for President, by the way.

Mr. WATT of North Carolina. He is first and foremost a citizen of the United States, and it is our obligation as Members of Congress to support and defend and protect our citizens. That is the public policy.

Mr. HYDE. I can only express the found hope that when we do get to debating immigration this hostility toward foreigners is somewhat diminished. I do not mean on the part of the gentleman from North Carolina, but others, who shall be nameless.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume because my chairman has made an important reference to a millionaire running for President, and of course it could be, let us see, it could be Forbes, Buchanan. Wow, this is a pretty long list of their guys, millionaires running for President.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. In fact, they have so much money they could almost be Democratic Senators.

Mr. CONYERS. Mr. Speaker, let us throw in the flat tax while we are at it, too.

As far as the assertion that foreign firms are not seeking to avoid suits in this country, I would ask all the members on and off the Committee on the Judiciary to review the case of Floyd Miles versus Morita Iron Works which took place in Cook County. The defendant avoided jurisdiction by selling aerosol machines through a straw man in Japan. Because there were insufficient contacts in Illinois, Mr. Miles could not seek compensation.

So therefore, all we are saying is let us look at the overall contacts nationwide as other countries do. By the way, this is not some prejudicial law to people who are not citizens of this country. Rather than limit it to their relief to a particular State, it is simple fairness in the utmost.

So suggesting that this amendment already adopted would kill product liability reform is unbelievable. I do not think the Members of this body or the other body are subject to the manipulations of foreign manufacturers, the European Economic Community or lobbyists that they may hire to be working here. Let us keep within some limits of reasonability and continue to approve the amendment that has already been adopted by the House.

If I had not brought this motion to instruct conferees, every reasonable conferee would be under the same responsibility to remember what his colleagues had done in the Congress anyway. But to have this provision now

being attacked as if product liability will survive or go down in defeat based upon making foreign corporations equally liable reaches the point that is almost ludicrous.

Mr. Speaker, I yield 4½ minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], our distinguished member of the Committee on the Judiciary.

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding this time to me, and I thank the gentleman for his wisdom, and the ranking member, the gentleman from Michigan [Mr. DINGELL], on the Committee on Commerce, for his support for a very reasonable position.

Mr. Speaker, this is a serious debate. It really is. I am somewhat puzzled with great respect to my chairman, and I might add that the Committee on the Judiciary has done a major task in fostering positive legislation in this last year, and I would expect under Chairman HYDE's leadership we will do so in this year.

It is interesting that my Republican colleagues will talk about free trade and the American people. I do not think America is a country that is filled with protectionists. I think Americans simply want fairness.

If I might simply focus on what this small instruction will do, if I can just narrow the focus, first of all, I would take issue. It is also not the barbershop maker of lotion for shaving in Prague. It is the multinational corporation that we are talking about, and in fact, it is our neighbor in South Carolina or Texas or Nebraska, Mr. Speaker, Mrs. Jones or Mrs. Smith or Mr. Jackson, who in fact might be impacted by this multinational corporation.

This is a simple instruction that asks the conferees to remember foreign companies and subject them to the same laws in product liability as we would national companies here in this country.

In particular, might I remind those of thalidomide? Might I remind my colleagues of the thalidomide that was used in the 1950's? Although it was not approved by this country, it managed to get here, and we saw deformed children, women who wanted to be fertile having deformed children, children with flippers and other types of debilitating types of deformities. What would have happened if that had fully come to this country and Mrs. Jones and Mr. Jones, the loving parents of a child that they loved, were not able to pursue this tragic occurrence?

This instruction deals with two major points, the points of service. Do we realize that if it was a company, a foreign company, that we in the United States could not even get service, we could not even get them into the courthouse. They would not be able to be filed against because they were a foreign national, something that some other major company in this country could not hide behind.

Then listen to this. Mrs. Peterson, Mrs. Smith again, could not get discovery. We could not penetrate to determine why this multinational company would make such a product that would do such damage, the simple principles of justice that we in America have the right to have.

Mr. Speaker, can we imagine that in a court of law we would have certain rights against an American company but none against the multinational company? Simple processes of justice: One, to serve them to bring them into the courthouse, that is all. We are not saying convicting them. They have their day in court. Does anyone think our American justice would treat a foreign entity any less than an American citizen, the court of law would apply, and then in preparing the case one could not have the same rights of discovery, of disclosing what was behind this dangerous product.

Mr. Speaker, I think that we are misguided here. This is not about free trade, and I might imagine that my colleagues on the other side of the aisle would never want to be told that foreign nationals have so much control of this body that this would gut the products liability if, for example, we would serve foreign corporations. We are not under this kind of umbrage. Would we say that, that we are so frightened of foreign nationals that we would not want a simple instruction?

I cannot believe that we have a situation where this body is so frightened of foreign nationals that a simple instruction passed and supported by 258 Members that simply said subject foreign corporations to the same laws on product liability as would be our American companies, service, one, to get into the courthouse and, two Mr. CONYERS, discovery to be able to determine what caused this tragic incident that would bring these parties into the courthouse, and I would be if I was anyone in Congress staying on the side of Mrs. Jones in Nebraska or Mr. Smith in Texas.

Mr. CONYERS. Mr. Speaker, do I have the right to close in this debate?

The SPEAKER pro tempore. The gentleman does have the right to close.

Mr. CONYERS. I have only one speaker remaining.

Mr. HYDE. Just one, yourself?

Mr. CONYERS. Mr. Speaker, I would not name that person yet. It is a surprise.

Mr. HYDE. Mr. Speaker, I have no more speakers. Whatever the gentleman would like to do, I am at his disposal.

Mr. CONYERS. Mr. Speaker, I yield the remainder of my time to the gentleman from Ohio [Mr. TRAFICANT] and would ask the gentleman from Ohio [Mr. TRAFICANT] to close the debate.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Ohio is recognized for 3 minutes.

Mr. TRAFICANT. Mr. Speaker, I voted for this bill, and I think if America is going to have true product liability reform, Congress should not stop it at the border. I think discovery and part of this process that we are discussing is very important.

But I wanted to talk about another issue here. I keep hearing everybody come up here and afraid to deal with this so-called protectionist term, and let me say this, my colleagues, we are at war with several protectionist nations who continue to take advantage of our economy.

I have heard the name of Buchanan invoked here earlier, and the tragedy is, while Buchanan will be cannibalized, the problem is he is one of the few guys talking about a major issue the American people are concerned about, and that is trade and the negative balance of payments, is Buchanan.

I also say this to the majority party. There can be no program to balance the budget of the United States of America without addressing this negative balance of payments and many of these factors that contribute to it.

So what I would like to say is I want to congratulate the gentleman from Illinois [Mr. HYDE] and congratulate the gentleman from Ohio [Mr. OXLEY]. I think on this issue they have become supersensitive to this protectionist word, and what has been allowed is countries like Japan and China just beat the hell out of us, and I think what my colleagues ought to do is allow the amendment, allow the language of the gentleman from Michigan [Mr. CONYERS] supported by the gentleman from Michigan [Mr. DINGELL] that will ensure that these manufacturers will be addressed properly under our product liability reform legislation. I think it is common sense.

By the way, the other body. The other body resisted one of my amendments that said it should be against the law to place a fraudulent label on an imported product, and it took Mr. HYDE and others to keep that in a crime bill.

□ 1545

So if you are gauging anything on the other body, please do not cave in to that. The problem is, we have this in our bill. The other body does not have it in their bill. That should not be the determining factor. We here voted in the affirmative. Let us stay in the affirmative. I think it is a good bill. I support much of what you do, Mr. Chairman.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the SPEAKER pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a

quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 256, nays 142, not voting 33, as follows:

[Roll No. 43]

YEAS—256

Abercrombie	Gephardt	Olver
Allard	Geren	Ortiz
Andrews	Gibbons	Orton
Baesler	Gillmor	Owens
Baldacci	Gonzalez	Pallone
Barcia	Goodling	Pastor
Barr	Gordon	Payne (NJ)
Barrett (WI)	Graham	Payne (VA)
Bateman	Green	Pelosi
Becerra	Gunderson	Peterson (FL)
Beilenson	Hall (OH)	Peterson (MN)
Bentsen	Hall (TX)	Petri
Berman	Hamilton	Pombo
Bevill	Harman	Pomeroy
Bishop	Hayes	Poshard
Blute	Hayworth	Pryce
Boehlert	Hefley	Rahall
Bonior	Hefner	Ramstad
Borski	Herger	Rangel
Boucher	Hilleary	Reed
Brewster	Hinchey	Regula
Browder	Hobson	Richardson
Brown (CA)	Holden	Riggs
Brown (FL)	Horn	Rivers
Brown (OH)	Houghton	Roberts
Brownback	Hoyer	Roemer
Bryant (TX)	Hunter	Rogers
Bunn	Jackson (IL)	Rohrabacher
Burton	Jackson-Lee (TX)	Roth
Cardin	Jefferson	Roukema
Chapman	Johnson (SD)	Roybal-Allard
Chenoweth	Johnson, E. B.	Royce
Clayton	Johnston	Rush
Clement	Jones	Sabo
Clinger	Kanjorski	Sanders
Clyburn	Kaptur	Sawyer
Coble	Kasich	Scarborough
Coleman	Kennedy (MA)	Schiff
Collins (MI)	Kennedy (RI)	Schroeder
Condit	Kennelly	Schumer
Conyers	Kildee	Scott
Costello	Kingston	Serrano
Coyne	Kleczka	Shuster
Cramer	Klink	Sisisky
Crapo	LaFalce	Skaggs
Cunningham	Lantos	Skelton
Danner	Levin	Slaughter
Deal	Lewis (GA)	Smith (MI)
DeFazio	Lincoln	Smith (WA)
DeLauro	Lipinski	Souder
Dellums	LoBiondo	Spence
Deutsch	Lofgren	Spratt
Diaz-Balart	Longley	Stark
Dickey	Lowey	Stearns
Dicks	Luther	Stenholm
Dingell	Maloney	Stockman
Dixon	Manton	Studds
Doggett	Markey	Stupak
Dooley	Martinez	Talent
Doyle	Martini	Tanner
Duncan	Mascara	Tate
Edwards	Matsui	Tauzin
Emerson	McCarthy	Taylor (MS)
Engel	McDade	Taylor (NC)
English	McDermott	Tejeda
Ensign	McHale	Thompson
Eshoo	McInnis	Thornton
Evans	McIntosh	Thurman
Farr	Meek	Tiahrt
Fattah	Menendez	Torres
Fazio	Metcalf	Torricelli
Fields (LA)	Meyers	Towns
Flake	Minge	Traficant
Foglietta	Mink	Vento
Foley	Moakley	Visclosky
Forbes	Mollohan	Volkmer
Ford	Moran	Walsh
Fowler	Nadler	Wamp
Fox	Neal	Ward
Frank (MA)	Ney	Waters
Franks (NJ)	Oberstar	Watt (NC)
Frost	Obey	Waxman
Gejdenson	Olver	Weldon (PA)
Weller	Wise	Wynn
Whitfield	Wolf	Yates
Williams	Woolsey	

NAYS—142

Archer	Frelinghuysen	Mica
Armey	Frisa	Miller (FL)
Bachus	Funderburk	Molinari
Baker (CA)	Gallegly	Moorhead
Baker (LA)	Ganske	Morella
Ballenger	Gekas	Murtha
Barrett (NE)	Gilchrest	Myers
Bartlett	Gilman	Myrick
Barton	Goodlatte	Nethercutt
Bass	Goss	Neumann
Bereuter	Greenwood	Norwood
Bilbray	Gutknecht	Nussle
Bilirakis	Hancock	Oxley
Bliley	Hansen	Packard
Boehner	Hastert	Paxon
Bonilla	Hastings (WA)	Porter
Bono	Heineman	Portman
Bryant (TN)	Hoekstra	Quinn
Bunning	Hoke	Radanovich
Burr	Hostettler	Ros-Lehtinen
Buyer	Hutchinson	Sanford
Callahan	Hyde	Saxton
Camp	Inglis	Schaefer
Campbell	Istook	Seastrand
Canady	Johnson (CT)	Sensenbrenner
Castle	Johnson, Sam	Shadegg
Chabot	Kelly	Shays
Chambliss	Kim	Skeen
Christensen	King	Smith (NJ)
Coburn	Klug	Smith (TX)
Collins (GA)	Knollenberg	Solomon
Combest	Kolbe	Stump
Cooley	LaHood	Thomas
Cox	Largent	Thornberry
Crane	Latham	Torkildsen
Cremeans	LaTourette	Upton
Cubin	Laughlin	Vucanovich
Davis	Lazio	Waldholtz
DeLay	Leach	Walker
Doolittle	Lewis (CA)	Weldon (FL)
Dornan	Lewis (KY)	White
Dreier	Lightfoot	Wicker
Dunn	Livingston	Young (AK)
Ehlers	Lucas	Young (FL)
Ewing	Manzullo	Zeliff
Fawell	McCollum	Zimmer
Flanagan	McHugh	
Franks (CT)	McKeon	

NOT VOTING—33

Ackerman	Furse	Montgomery
Calvert	Gutierrez	Parker
Chrysler	Hastings (FL)	Pickett
Clay	Hilliard	Quillen
Collins (IL)	Jacobs	Rose
de la Garza	Linder	Salmon
Durbin	McCrery	Shaw
Ehrlich	McKinney	Stokes
Everett	McNulty	Velazquez
Fields (TX)	Meehan	Watts (OK)
Filner	Miller (CA)	Wilson

□ 1606

The Clerk announced the following pair:

On this vote:

Ms. Furse for, with Mr. Ehrlich against.

Messrs. BARTON of Texas, HOEKSTRA, SHAYS, and YOUNG of Alaska changed their vote from ''yea'' to ''nay.''

Messrs. PAYNE of Virginia, CRAPO, BUNN of Oregon, WELLER, PETRI, TIAHRT, HEFLEY, STOCKMAN, SPENCE, JONES, and SMITH of Michigan changed their vote from ''nay'' to ''yea.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 994, SMALL BUSINESS GROWTH AND ADMINISTRATIVE ACCOUNTABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–464) on the resolution (H. Res. 368) providing for consideration of the bill (H.R. 994) to require the periodic review and automatic termination of Federal regulations, which was referred to the House Calendar and ordered to be printed.

COAST GUARD AUTHORIZATION ACT OF 1995

Mr. COBLE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1004) to authorize appropriations for the U.S. Coast Guard, and for other purposes, and ask for its immediate consideration in the House; to strike out all after the enacting clause of S. 1004 and insert in lieu thereof the text of H.R. 1361 as passed by the House; to pass the Senate bill as amended; and to insist on the House amendment and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of S. 1004 is as follows:

S. 1004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Coast Guard Authorization Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows: